



GEORGETOWN LAW
INSTITUTE FOR PUBLIC REPRESENTATION

Hope M. Babcock
Angela J. Campbell
Brian Wolfman
Directors
Leah M. Nicholls
Senior Staff Attorney
Kelly D. Davis
Laura M. Moy*
Margot J. Pollans
Blake E. Reid
Staff Attorneys

600 New Jersey Avenue, NW, Suite 312
Washington, DC 20001-2075
Telephone: 202-662-9535
TDD: 202-662-9538
Fax: 202-662-9634

April 6, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation in:
Standardized and Enhanced Disclosure
Requirements for Television Broadcast
Licensee Public Interest Obligations, MM
Dkt. 00-168 and Standardizing Program
Reporting Requirements for Broadcast
Licensees, MB Dkt. 11-189

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's rules, the Institute for Public Representation, on behalf of the Public Interest Public Airwaves Coalition, submits this notice regarding an *ex parte* communication in the above referenced dockets.

On February 14, 2012, representatives of the Public Interest Public Airwaves Coalition (PIPAC), including Angela Campbell and Laura Moy of the Georgetown Institute for Public Representation; Corie Wright of Free Press; Meredith McGehee of Campaign Legal Center; and Tom Glaisyer of New America Foundation; met with Bill Lake, Mary Beth Murphy, John Norton, Bob Ratcliffe, and Kim Matthews of the Media Bureau.

*Admitted to the Maryland bar only; DC bar membership pending. Practice supervised by members of the DC bar.

The subject of the meeting was the Federal Communications Commission's recent proposals to replace broadcasters' paper public files with an online public file that would be hosted by the Commission and to replace the quarterly issues/programs (I/P) lists with a streamlined, standardized disclosure form that would also be hosted by the Commission.

The Requirement to Submit Public Files as Scanned PDFs or Similar Is within the Ability of Broadcasters

The public interest groups summarized analysis that shows that 29 of 30 randomly selected stations have PDFs linked on their websites.¹ This finding supports the FCC proposal that broadcasters as a whole are quite familiar with creating scanned copies of their files and uploading them to an FCC website. We urged the FCC to view with extreme skepticism broadcaster claims to contrary.

The Commission Should Not Exempt Small-Market Broadcasters from Online Disclosure Requirements

We urged Commission staff to make sure that disclosure requirements apply to all broadcasters, and not just those in the largest markets. Many areas that are ranked lower as media markets are nonetheless key political advertising targets for both national and local political issues. Additionally many campaigns avoid spending limited resources on TV ads in the largest—and most expensive—markets; therefore, campaign dollars spent on TV ads in smaller markets may have more of an impact on electoral outcomes.

In any event, transparency and disclosure are as important to smaller communities as they are to larger ones. Exempting some licensees from the online posting requirement based on station or market size could result in arbitrary line drawing by the Commission and would unjustifiably deny ready access to this critical information in the very communities that need it the most.

¹ See Tom Glaisyer, "Scanning files is easy," <http://mediapolicy.newamerica.net/node/66176>

A Bipartisan Legislature Created the Existing Political File Requirements to Ensure Transparency for Campaigners and the Public

We reminded the Bureau that contrary to some broadcasters' claims that the online political file constitutes an agency attempt at backdoor campaign finance regulation, the political current political file requirements were enacted a decade ago by legislation passed by a bipartisan Congress and signed by a Republican president.

Although discussions of campaign finance reform are often divisively partisan, enhanced disclosure has long been favored by legislators on both sides of the aisle. For example, almost thirteen years ago, Lamar Alexander, then a presidential candidate and now the senior senator from Tennessee, told the *Washington Post*, "I support campaign finance reform, but to me that means individual contributions, free speech and full disclosure. In other words, any individual can give whatever they want as long as it is disclosed every day on the Internet."² The following year, Mitch McConnell asked *Meet the Press's* Tim Russert, "Why would a little disclosure be better than a lot of disclosure?" It has been ten years since the Bipartisan Campaign Reform Act of 2002 passed by a large margin in the House and Senate, was signed into law, and first created broadcasters' political file obligations.

Recent claims by some broadcast industry executives that information contained in broadcasters' political files constitutes proprietary and sensitive advertising pricing information are wrong. Any cognizable claim that such information might be proprietary or sensitive was defeated over a decade ago when Congress passed and President Bush signed the law requiring this information to be made public for the benefit of campaigners and the public at large.

The Proposed Standardized Form for Program Reporting Is Already Used by Some Broadcasters, and Making it Available as a Web-Based Form Would in Fact Reduce Administrative Burden for those Broadcasters

With regard to the Commission's pending proceeding on how to replace broadcast issues/programs lists, we pointed out that some broadcasters voluntarily use a program reporting form almost identical to the standardized form that PIPAC has proposed to replace the current issues/programs lists.³ KOIN, a CBS affiliate station located in Portland, Oregon, puts several components of its public file online in PDF

² *Live Online: Presidential Candidate Lamar Alexander*, Washington Post (May 19, 1999), <http://www.washingtonpost.com/wp-srv/politics/talk/zforum/alexander051999.htm>

³ <http://www.savethenews.org/sample-form>.

format, with records dating back to 2008.⁴ Its issues/programs list for local programming strongly resembles the proposed form. The list contains segment-by-segment reporting with segments classified into the same local categories PIPAC has recommended for standardized reporting (local news, civic affairs, and electoral programming). KOIN's list identifies when each segment ran and whether the content was locally produced, first run, aired on the primary or a multicast channel, or sponsored content.

For stations like KOIN that diligently and commendably maintain detailed issues/programs lists and make copies available online, a web-based standardized form would likely reduce administrative burden. Whereas KOIN employees evidently print out hard copies of their form, fill it in by hand, then later scan it in as a PDF to be posted online, programming reported via a web-based standardized form could go directly online.

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above referenced docket. If you have any questions regarding this filing please do not hesitate to contact me.

Respectfully submitted,

/s/

Laura M. Moy*
Institute for Public Representation
Georgetown Law
600 New Jersey Ave, NW, Suite 312
Washington, DC 20001
(202) 662-9535

cc:

Bill Lake
Mary Beth Murphy
John Norton
Bob Ratcliffe
Kim Matthews

⁴ <http://www.koinlocal6.com/content/aboutkoin/eeo/default.aspx>

* Admitted to the Maryland bar only; DC bar membership pending. Practice supervised by members of the DC bar.